

REMARKS

Claims 2-8, 26, 32-35, 40, and 42-45 are now pending in the application. Claims 28 and 29 have been canceled herein without disclaimer of any subject matter. The April 7, 2006, Office action rejected every pending claim for one or more reasons. Reconsideration and allowance is requested for at least the following reasons.

A. 35 U.S.C. § 112

Claims 2-5 and 42-45 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to show that the inventors did not possess the claimed inventions at the time of filing. The relevant portion of the Office action states that “[t]he claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors at the time the application was filed had possession of the claimed invention.” The Office action essentially contends that the as-filed specification fails to teach: (a) the combination of a cage in a coating chamber having a vibration source that generates pressure waves sufficient to suspend the cage without the vibration source contacting the cage; (b) that a cage is a stent and that a cage is a vena-cava filter; (c) the independent movement of the vibration source from the coating chamber; and (d) the independent movement of the screen from the vibration source.

Each is addressed in seriatim below.

As to the cage, coating chamber, and vibration source, figure 9 and the accompanying text (paragraphs 102-108), provide the necessary support to show that the inventors possessed the claimed subject matter at the time of filing. Paragraph 102 describes a coating chamber having a diaphragm positioned below a screen. This diaphragm is described as generating pressure waves (e.g., sound waves) that act to lift the medical devices off of the screen as they

are coated. Thus, the vibration source doesn't contact the medical devices being coated.

Paragraph 102 specifically states:

...device 900 uses acoustical means to suspend medical devices 990 during coating. In device 900, medical devices 990 can be placed on a mesh or other screening device 940 within the coating container 910. Then, during the coating process, these medical devices 990 may be urged upwards by the pressure waves generated from acoustical vibrating structure or diaphragm 950 located below the mesh 940....As a result of the vibrations of diaphragm 950, that air above the diaphragm moves up and, when containing enough energy, forces medical devices 990 away from the mesh or screen.

These medical devices may be stents and vena-cava filters as well as other devices. *See Para.*

104. Given that the definition of a cage is "an enclosing openwork structure," *see The American Heritage College Dictionary*, 3rd ed., and that the cages described in the specification at paragraphs 77 and 78 include structures having circular and/or elliptical rings and helical springs, one of skill in the art would see that the specification teaches that the medical devices positioned in the coating chamber described at paragraph 102 and elsewhere can be cages as recited in claim 4. Moreover, when discussing possible embodiments, paragraphs 106 and 107 of the specification explain that the medical devices may themselves be placed in cages during the coating process. Accordingly, multiple teachings exist in the specification to show the inventors' knowledge of the use of the word cages as claimed.

As to the language of claims 3 and 43, the definition of cage, as quoted above, provides that a cage is "an enclosing openwork structure." *See The American Heritage College Dictionary*, 3rd ed. Both a stent and a vena-cava filter, which are themselves openwork structures, fall within the definition of and are examples of cages. Since the specification discloses placing the medical devices directly in the coating chamber as well as within the protective devices shown in figure 4 and 5, there is ample support for the language of claims 3 and 43, which equates the cage of claim 4 with either a stent or a vena-cava filter.

The specification also provides support for the rejected language from claims 8 and 26 - “the vibration source may move independently from the coating chamber.” Support for this language can be found in figure 9 as well as the accompanying text. This illustration and accompanying annotations provide that the pictured diaphragm is free to oscillate independent of the coating chamber. As is shown and described in figure 9, an acoustic vibrating diaphragm 950 is coupled to a driver 960 that causes the diaphragm to vibrate and generate an acoustic pressure wave. This driver, which is positioned outside of the coating chamber, is described as imparting vibration to the diaphragm - not the coating chamber. Moreover, each of the coating chambers depicted and described with respect to figures 6 through 9 show the chamber as a generally stationary vessel not one that is designed to oscillate and vibrating under the power of the vibrator shown in the drawings. Consequently, based at least on these disclosures, there is ample support for one of skill in the art who reads the as-filed application to see that support exists therein for claims 8 and 26, and their recitation that the “vibration source may move independently from the coating chamber.”

Claims 2-3, 4-5, 40 and 42-45 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention.

The Office action comments on claim 5 and claim 40 and provides no other comments for the other rejected claims. As to Claim 5, it has been amended, thus rendering any perceived ambiguity moot. As to claim 40, the objected to language is written in means plus function format. It specifically recites “means for supplying a therapeutic coating into the coating area.” The Office action contends that this language “is confusing since it is unclear what the means for

supplying encompasses ... the source of therapeutic coating and nozzle or the nozzle itself or source of coating itself." In response the undersigned submits that the function of this means language is to supply therapeutic coating into a coating area. Various structures are provided in the specification for carrying out this function. These structures are embodied in the nozzles (630, 730, 830 and 930) of figures 6 through 9.

B. 35 U.S.C. § 102

Claims 3-6, 8, 32-35, and 42-45 are rejected as being anticipated by Alkan.

Claim 4 and its dependent claims (3, 5, and 42-45) are patentable over Alkan at least because claim 4 recites "a coating chamber" and "a vibration source having a diaphragm exposed to the coating chamber."

In Alkan, the tablets present in the funnel 1 are fluidized by the controlled vibration of the perforated bed through which drying air is passed. *See* Alkan at col. 1, lns. 10-14. In other words, Alkan shakes a screen to jitter tablets placed thereon and passes a gas through the screen to dry coating on the tablets.

Alkan doesn't disclose or suggest a diaphragm exposed to the coating chamber as in the claim as the vibration source in Alkan is covered and sealed. For at least this reason Alkan does not anticipate claim 4 and its dependent claims.

Claim 6 is patentable over Alkan at least because it recites a "coating chamber" a "vibration source ... not directly coupled to a screen," and "the vibration source ... adapted to generate pressure waves ... containing enough energy to lift a medical device positioned in the coating chamber away from the screen."

In Alkan, the amplifier 8 is directly coupled to the screen 3 and in Alkan the amplifier is not described as being sized or powered to generate pressure waves to levitate the tablets or anything else placed in the funnel. For at least these reasons, Alkan does not anticipate claim 6.

Claim 8 is patentable over Alkan at least because it recites an acoustic vibration source having a diaphragm entirely within the coating chamber wherein the vibration source may move independently from the coating chamber. First, the vibration source in Alkan is directly coupled to the funnel, thus, as it vibrates so, too, must the funnel - they may not move independently as recited in the claim language. Second, the vibration source in Alkan does not have a diaphragm within a coating chamber as recited in the claim.

With regard to the Office action's assertion that the components of Alkan may be disassembled in order for the claim to read on the device, the undersigned submits that such a modification of the Alkan device is improper. Moreover, it illustrates that the claim is not anticipated by the device disclosed in Alkan.

Claim 26 and its dependent claims 32-35 are patentable over Alkan at least because they recite "wherein the vibration source has a diaphragm that is in fluid communication with the coating area." Comparatively, the vibration source in Alkan does not have a diaphragm that is in fluid communication with a coating area. Thus, claim 26 and its dependent claims are patentable over Alkan for at least this reason.

C. 35 U.S.C. § 103

Claim 7 stands rejected as being obvious in light of Alkan and Wurster. Claim 7 is patentable over these references at least because it recites “wherein the vibration source has a vibrating structure positioned within the coating chamber, the vibrating structure having one or more exposed sides, wherein at least one exposed side has a space between it and the coating chamber.” Nowhere in either reference is this language disclosed or suggested.

Claim 40 is patentable over the cited references at least because it recites “wherein the means for suspending the medical implants in the coating area during the coating process comprises a vibration structure and a nozzle and wherein the vibrating structure has one or more exposed sides, wherein at least one exposed side has a space between it and the coating area.” Nowhere within Wurster, Alkan or Zingerman is this language disclosed or suggested.

Claim 5 is patentable over Alkan in view of Wurster at least because claim 4 recites a diaphragm exposed to the coating chamber. Neither reference discloses or suggests this language.

Claims 8 and 26 are patentable over Alkan and Wurster at least for the reasons discussed above under section 102.

Should any questions arise, the Examiner is invited to contact the undersigned at (202) 220-4311.

The Commissioner is hereby authorized to charge any fees and credit any overpayments associated with this filing to Kenyon & Kenyon LLP, Deposit Account No. 11-0600.

Respectfully submitted,



Fred T. Grasso
Reg. No. 43,644

KENYON AND KENYON LLP
1500 K Street, N.W.
Washington, D.C. 20005
(202) 220-4200
(202) 220-4201 (Fax)
607029v2 (FTG/bep)